

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2589

Introduced by Assembly Member Bradford

February 24, 2012

An act to amend Section 11580.2 of the Insurance Code, relating to automobile insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2589, as amended, Bradford. Automobile insurance: underinsured motorist coverage: ~~coverage~~: survey.

Existing law prohibits a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle from being issued or delivered in this state to the owner or operator of a motor vehicle, or from being issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with specified coverage limits insuring the insured, the insured's heirs, or legal representative for all sums within the limits that he, she, or they are legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle, except as otherwise provided. Uninsured motorist coverage includes underinsured motorist coverage.

This bill would require the California Research Bureau to conduct a survey to compare the key provisions of California's underinsured

motorist coverage laws with the laws of other states, as specified. The bill would require the bureau to conduct the survey in consultation with automobile insurers, consumer attorneys, and the Department of Insurance, and to report its findings to the Legislature no later than December 31, 2013.

~~Under existing law, when bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing underinsured motorist coverage is limited to the insured's underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.~~

~~This bill would delete the exclusion of the above-described amount paid to the insured for purposes of determining the maximum liability of the insurer providing underinsured motorist coverage.~~

~~This bill would also change the definition of an underinsured motor vehicle to mean a motor vehicle that is an insured motor vehicle but the liability limits, or amounts payable from those limits, are less than the damages suffered by the injured person or persons.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. (a) The California Research Bureau shall conduct*
- 2 *a survey, as described in subdivision (b), in consultation with*
- 3 *automobile insurers, consumer attorneys, and the Department of*
- 4 *Insurance, and shall report its findings to the Legislature no later*
- 5 *than December 31, 2013.*
- 6 *(b) The survey required by subdivision (a) shall compare the*
- 7 *key provisions of California's underinsured motorist coverage*
- 8 *laws, as specified in Section 11580.2 of the Insurance Code, with*
- 9 *the laws of each of the other states in the United States.*
- 10 *(c) In addition to reporting the survey findings, the California*
- 11 *Research Bureau shall include in its report to the Legislature a*
- 12 *discussion concerning the extent of disclosure to California*
- 13 *consumers about the operation of California's underinsured*
- 14 *motorist coverage as compared to disclosures required by other*
- 15 *states.*
- 16 *(d) (1) The report required under this section shall be submitted*
- 17 *in compliance with Section 9795 of the Government Code.*

1 (2) Pursuant to Section 10231.5 of the Government Code, this
2 section is repealed on December 31, 2017.

3 ~~SECTION 1. Section 11580.2 of the Insurance Code is~~
4 ~~amended to read:~~

5 ~~11580.2. (a) (1) No policy of bodily injury liability insurance~~
6 ~~covering liability arising out of the ownership, maintenance, or~~
7 ~~use of any motor vehicle, except for policies that provide insurance~~
8 ~~in the Republic of Mexico issued or delivered in this state by~~
9 ~~nonadmitted Mexican insurers, shall be issued or delivered in this~~
10 ~~state to the owner or operator of a motor vehicle, or shall be issued~~
11 ~~or delivered by any insurer licensed in this state upon any motor~~
12 ~~vehicle then principally used or principally garaged in this state,~~
13 ~~unless the policy contains, or has added to it by endorsement, a~~
14 ~~provision with coverage limits at least equal to the limits specified~~
15 ~~in subdivision (m) and in no case less than the financial~~
16 ~~responsibility requirements specified in Section 16056 of the~~
17 ~~Vehicle Code insuring the insured, the insured's heirs, or legal~~
18 ~~representative for all sums within the limits that he, she, or they,~~
19 ~~as the case may be, shall be legally entitled to recover as damages~~
20 ~~for bodily injury or wrongful death from the owner or operator of~~
21 ~~an uninsured motor vehicle. The insurer and any named insured,~~
22 ~~prior to or subsequent to the issuance or renewal of a policy, may,~~
23 ~~by agreement in writing, in the form specified in paragraph (2) or~~
24 ~~paragraph (3), (A) delete the provision covering damage caused~~
25 ~~by an uninsured motor vehicle completely, or (B) delete the~~
26 ~~coverage when a motor vehicle is operated by a natural person or~~
27 ~~persons designated by name, or (C) agree to provide the coverage~~
28 ~~in an amount less than that required by subdivision (m) but not~~
29 ~~less than the financial responsibility requirements specified in~~
30 ~~Section 16056 of the Vehicle Code. Any of these agreements by~~
31 ~~any named insured or agreement for the amount of coverage shall~~
32 ~~be binding upon every insured to whom the policy or endorsement~~
33 ~~provisions apply while the policy is in force, and shall continue to~~
34 ~~be so binding with respect to any continuation or renewal of the~~
35 ~~policy or with respect to any other policy that extends, changes,~~
36 ~~supersedes, or replaces the policy issued to the named insured by~~
37 ~~the same insurer, or with respect to reinstatement of the policy~~
38 ~~within 30 days of any lapse thereof. A policy shall be excluded~~
39 ~~from the application of this section if the automobile liability~~
40 ~~coverage is provided only on an excess or umbrella basis. Nothing~~

1 in this section shall require that uninsured motorist coverage be
2 offered or provided in any homeowner policy, personal and
3 residents' liability policy, comprehensive personal liability policy,
4 manufacturers' and contractors' policy, premises liability policy,
5 special multiperil policy, or any other policy or endorsement where
6 automobile liability coverage is offered as incidental to some other
7 basic coverage, notwithstanding that the policy may provide
8 automobile or motor vehicle liability coverage on insured premises
9 or the ways immediately adjoining.

10 (2) The agreement specified in paragraph (1) to delete the
11 provision covering damage caused by an uninsured motor vehicle
12 completely or delete the coverage when a motor vehicle is operated
13 by a natural person or persons designated by name shall be in the
14 following form:

15 "The California Insurance Code requires an insurer to provide
16 uninsured motorists coverage in each bodily injury liability
17 insurance policy it issues covering liability arising out of the
18 ownership, maintenance, or use of a motor vehicle. Those
19 provisions also permit the insurer and the applicant to delete the
20 coverage completely or to delete the coverage when a motor vehicle
21 is operated by a natural person or persons designated by name.
22 Uninsured motorists coverage insures the insured, his or her heirs,
23 or legal representatives for all sums within the limits established
24 by law, that the person or persons are legally entitled to recover
25 as damages for bodily injury, including any resulting sickness,
26 disease, or death, to the insured from the owner or operator of an
27 uninsured motor vehicle not owned or operated by the insured or
28 a resident of the same household. An uninsured motor vehicle
29 includes an underinsured motor vehicle as defined in subdivision
30 (p) of Section 11580.2 of the Insurance Code."

31 The agreement may contain additional statements not in
32 derogation of or in conflict with the foregoing. The execution of
33 the agreement shall relieve the insurer of liability under this section
34 while the agreement remains in effect.

35 (3) The agreement specified in paragraph (1) to provide coverage
36 in an amount less than that required by subdivision (m) shall be
37 in the following form:

38 "The California Insurance Code requires an insurer to provide
39 uninsured motorists coverage in each bodily injury liability
40 insurance policy it issues covering liability arising out of the

1 ownership, maintenance, or use of a motor vehicle. Those
2 provisions also permit the insurer and the applicant to agree to
3 provide the coverage in an amount less than that required by
4 subdivision (m) of Section 11580.2 of the Insurance Code but not
5 less than the financial responsibility requirements. Uninsured
6 motorists coverage insures the insured, his or her heirs, or legal
7 representatives for all sums within the limits established by law,
8 that the person or persons are legally entitled to recover as damages
9 for bodily injury, including any resulting sickness, disease, or
10 death, to the insured from the owner or operator of an uninsured
11 motor vehicle not owned or operated by the insured or a resident
12 of the same household. An uninsured motor vehicle includes an
13 underinsured motor vehicle as defined in subdivision (p) of Section
14 11580.2 of the Insurance Code.”

15 The agreement may contain additional statements not in
16 derogation of or in conflict with this paragraph. However, it shall
17 be presumed that an application for a policy of bodily injury
18 liability insurance containing uninsured motorist coverage in an
19 amount less than that required by subdivision (m), signed by the
20 named insured and approved by the insurer, with a policy effective
21 date after January 1, 1985, shall be a valid agreement as to the
22 amount of uninsured motorist coverage to be provided.

23 (b) As used in subdivision (a), “bodily injury” includes sickness
24 or disease, including death, resulting therefrom; “named insured”
25 means only the individual or organization named in the declarations
26 of the policy of motor vehicle bodily injury liability insurance
27 referred to in subdivision (a); as used in subdivision (a) if the
28 named insured is an individual “insured” means the named insured
29 and the spouse of the named insured and, while residents of the
30 same household, relatives of either while occupants of a motor
31 vehicle or otherwise, heirs and any other person while in or upon
32 or entering into or alighting from an insured motor vehicle and
33 any person with respect to damages he or she is entitled to recover
34 for care or loss of services because of bodily injury to which the
35 policy provisions or endorsement apply; as used in subdivision
36 (a), if the named insured is an entity other than an individual,
37 “insured” means any person while in or upon or entering into or
38 alighting from an insured motor vehicle and any person with
39 respect to damages he or she is entitled to recover for care or loss
40 of services because of bodily injury to which the policy provisions

1 or endorsement apply. As used in this subdivision, “individual”
2 shall not include persons doing business as corporations,
3 partnerships, or associations. As used in this subdivision, “insured
4 motor vehicle” means the motor vehicle described in the underlying
5 insurance policy of which the uninsured motorist endorsement or
6 coverage is a part, a temporary substitute automobile for which
7 liability coverage is provided in the policy or a newly acquired
8 automobile for which liability coverage is provided in the policy
9 if the motor vehicle is used by the named insured or with his or
10 her permission or consent, express or implied, and any other
11 automobile not owned by or furnished for the regular use of the
12 named insured or any resident of the same household, or by a
13 natural person or persons for whom coverage has been deleted in
14 accordance with subdivision (a) while being operated by the named
15 insured or his or her spouse if a resident of the same household;
16 but “insured motor vehicle” shall not include any automobile while
17 used as a public or livery conveyance. As used in this section,
18 “uninsured motor vehicle” means a motor vehicle with respect to
19 the ownership, maintenance or use of which there is no bodily
20 injury liability insurance or bond applicable at the time of the
21 accident, or there is the applicable insurance or bond but the
22 company writing the insurance or bond denies coverage thereunder
23 or refuses to admit coverage thereunder except conditionally or
24 with reservation, or an “underinsured motor vehicle” as defined
25 in subdivision (p), or a motor vehicle used without the permission
26 of the owner thereof if there is no bodily injury liability insurance
27 or bond applicable at the time of the accident with respect to the
28 owner or operator thereof, or the owner or operator thereof be
29 unknown, provided that, with respect to an “uninsured motor
30 vehicle” whose owner or operator is unknown:

31 (1) The bodily injury has arisen out of physical contact of the
32 automobile with the insured or with an automobile that the insured
33 is occupying.

34 (2) The insured or someone on his or her behalf has reported
35 the accident within 24 hours to the police department of the city
36 where the accident occurred or, if the accident occurred in
37 unincorporated territory then either to the sheriff of the county
38 where the accident occurred or to the local headquarters of the
39 California Highway Patrol, and has filed with the insurer within
40 30 days thereafter a statement under oath that the insured or his

1 or her legal representative has or the insured's heirs have a cause
2 of action arising out of the accident for damages against a person
3 or persons whose identity is unascertainable and set forth facts in
4 support thereof. As used in this section, "uninsured motor vehicle"
5 shall not include a motor vehicle owned or operated by the named
6 insured or any resident of the same household or self-insured within
7 the meaning of the Financial Responsibility Law of the state in
8 which the motor vehicle is registered or that is owned by the United
9 States of America, Canada, a state or political subdivision of any
10 of those governments or an agency of any of the foregoing, or a
11 land motor vehicle or trailer while located for use as a residence
12 or premises and not as a vehicle, or any equipment or vehicle
13 designed or modified for use primarily off public roads, except
14 while actually upon public roads.

15 As used in this section, "uninsured motor vehicle" also means
16 an insured motor vehicle where the liability insurer thereof is
17 unable to make payment with respect to the legal liability of its
18 insured within the limits specified therein because of insolvency.
19 An insurer's solvency protection shall be applicable only to
20 accidents occurring during a policy period in which its insured's
21 motor vehicle coverage is in effect where the liability insurer of
22 the tortfeasor becomes insolvent within one year of the accident.
23 In the event of payment to any person under the coverage required
24 by this section and subject to the terms and conditions of the
25 coverage, the insurer making the payment, shall to the extent
26 thereof, be entitled to any proceeds that may be recoverable from
27 the assets of the insolvent insurer through any settlement or
28 judgment of the person against the insolvent insurer.

29 Nothing in this section is intended to exclude from the definition
30 of an uninsured motor vehicle any motoreycle or private
31 passenger-type four-wheel drive motor vehicle if that vehicle was
32 subject to and failed to comply with the Financial Responsibility
33 Law of this state.

34 (e) The insurance coverage provided for in this section does not
35 apply either as primary or as excess coverage:

36 (1) To property damage sustained by the insured.

37 (2) To bodily injury of the insured while in or upon or while
38 entering into or alighting from a motor vehicle other than the
39 described motor vehicle if the owner thereof has insurance similar
40 to that provided in this section.

1 ~~(3) To bodily injury of the insured with respect to which the~~
2 ~~insured or his or her representative shall, without the written~~
3 ~~consent of the insurer, make any settlement with or prosecute to~~
4 ~~judgment any action against any person who may be legally liable~~
5 ~~therefor.~~

6 ~~(4) In any instance where it would inure directly or indirectly~~
7 ~~to the benefit of any workers' compensation carrier or to any person~~
8 ~~qualified as a self-insurer under any workers' compensation law;~~
9 ~~or directly to the benefit of the United States, or any state or any~~
10 ~~political subdivision thereof.~~

11 ~~(5) To establish proof of financial responsibility as provided in~~
12 ~~Section 16054 of the Vehicle Code.~~

13 ~~(6) To bodily injury of the insured while occupying a motor~~
14 ~~vehicle owned by an insured or leased to an insured under a written~~
15 ~~contract for a period of six months or longer, unless the occupied~~
16 ~~vehicle is an insured motor vehicle. "Motor vehicle" as used in~~
17 ~~this paragraph means any self-propelled vehicle.~~

18 ~~(7) To bodily injury of the insured when struck by a vehicle~~
19 ~~owned by an insured, except when the injured insured's vehicle~~
20 ~~is being operated, or caused to be operated, by a person without~~
21 ~~the injured insured's consent in connection with criminal activity~~
22 ~~that has been documented in a police report and that the injured~~
23 ~~insured is not a party to.~~

24 ~~(8) To bodily injury of the insured while occupying a motor~~
25 ~~vehicle rented or leased to the insured for public or livery purposes.~~

26 ~~(d) Subject to paragraph (2) of subdivision (c), the policy or~~
27 ~~endorsement may provide that if the insured has insurance available~~
28 ~~to the insured under more than one uninsured motorist coverage~~
29 ~~provision, any damages shall not be deemed to exceed the higher~~
30 ~~of the applicable limits of the respective coverages, and the~~
31 ~~damages shall be prorated between the applicable coverages as~~
32 ~~the limits of each coverage bear to the total of the limits.~~

33 ~~(e) The policy or endorsement added thereto may provide that~~
34 ~~if the insured has valid and collectible automobile medical payment~~
35 ~~insurance available to him or her, the damages that the insured~~
36 ~~shall be entitled to recover from the owner or operator of an~~
37 ~~uninsured motor vehicle shall be reduced for purposes of uninsured~~
38 ~~motorist coverage by the amounts paid or due to be paid under the~~
39 ~~automobile medical payment insurance.~~

~~(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:~~

~~(1) Whenever in Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, reference is made to the court in which the action is pending, or provision is made for~~

1 application to the court or obtaining leave of court or approval by
2 the court, the court that shall have jurisdiction for the purposes of
3 this section shall be the superior court of the State of California;
4 in and for any county that is a proper county for the filing of a suit
5 for bodily injury arising out of the accident, against the uninsured
6 motorist, or any county specified in the policy or an endorsement
7 added thereto as a proper county for arbitration or action thereon.

8 (2) Any proper court to which application is first made by either
9 the insured or the insurer under Title 4 (commencing with Section
10 2016.010) of Part 4 of the Code of Civil Procedure for any
11 discovery or other relief or remedy, shall thereafter be the only
12 court to which either of the parties shall make any applications
13 under Title 4 (commencing with Section 2016.010) of Part 4 of
14 the Code of Civil Procedure with respect to the same accident;
15 subject, however, to the right of the court to grant a change of
16 venue after a hearing upon notice, upon any of the grounds upon
17 which change of venue might be granted in an action filed in the
18 superior court.

19 (3) A deposition pursuant to Chapter 9 (commencing with
20 Section 2025.010) of Title 4 of Part 4 of the Code of Civil
21 Procedure may be taken without leave of court, except that leave
22 of court, granted with or without notice and for good cause shown,
23 must be obtained if the notice of the taking of the deposition is
24 served by either party within 20 days after the accident.

25 (4) Subdivision (a) of Section 2025.280 of the Code of Civil
26 Procedure is not applicable to discovery under this section.

27 (5) For the purposes of discovery under this section, the insured
28 and the insurer shall each be deemed to be “a party to the action,”
29 where that phrase is used in Section 2025.260 of the Code of Civil
30 Procedure.

31 (6) Interrogatories under Chapter 13 (commencing with Section
32 2030.010) of Title 4 of Part 4 of the Code of Civil Procedure and
33 requests for admission under Chapter 16 (commencing with Section
34 2033.010) of Title 4 of Part 4 of the Code of Civil Procedure may
35 be served by either the insured or the insurer upon the other at any
36 time more than 20 days after the accident without leave of court.

37 (7) Nothing in this section limits the rights of any party to
38 discovery in any action pending or that may hereafter be pending
39 in any court.

1 ~~(g) The insurer paying a claim under an uninsured motorist~~
2 ~~endorsement or coverage shall be entitled to be subrogated to the~~
3 ~~rights of the insured to whom the claim was paid against any person~~
4 ~~legally liable for the injury or death to the extent that payment was~~
5 ~~made. The action may be brought within three years from the date~~
6 ~~that payment was made hereunder.~~

7 ~~(h) An insured entitled to recovery under the uninsured motorist~~
8 ~~endorsement or coverage shall be reimbursed within the conditions~~
9 ~~stated herein without being required to sign any release or waiver~~
10 ~~of rights to which he or she may be entitled under any other~~
11 ~~insurance coverage applicable; nor shall payment under this section~~
12 ~~to the insured be delayed or made contingent upon the decisions~~
13 ~~as to liability or distribution of loss costs under other bodily injury~~
14 ~~liability insurance or any bond applicable to the accident. Any loss~~
15 ~~payable under the terms of the uninsured motorist endorsement or~~
16 ~~coverage to or for any person may be reduced:~~

17 ~~(1) By the amount paid and the present value of all amounts~~
18 ~~payable to him or her, his or her executor, administrator, heirs, or~~
19 ~~legal representative under any workers' compensation law,~~
20 ~~exclusive of nonoccupational disability benefits:~~

21 ~~(2) By the amount the insured is entitled to recover from any~~
22 ~~other person insured under the underlying liability insurance policy~~
23 ~~of which the uninsured motorist endorsement or coverage is a part,~~
24 ~~including any amounts tendered to the insured as advance payment~~
25 ~~on behalf of the other person by the insurer providing the~~
26 ~~underlying liability insurance:~~

27 ~~(i) (1) No cause of action shall accrue to the insured under any~~
28 ~~policy or endorsement provision issued pursuant to this section~~
29 ~~unless one of the following actions have been taken within two~~
30 ~~years from the date of the accident:~~

31 ~~(A) Suit for bodily injury has been filed against the uninsured~~
32 ~~motorist, in a court of competent jurisdiction:~~

33 ~~(B) Agreement as to the amount due under the policy has been~~
34 ~~concluded:~~

35 ~~(C) The insured has formally instituted arbitration proceedings~~
36 ~~by notifying the insurer in writing sent by certified mail, return~~
37 ~~receipt requested. Notice shall be sent to the insurer or to the agent~~
38 ~~for process designated by the insurer filed with the department:~~

39 ~~(2) Any arbitration instituted pursuant to this section shall be~~
40 ~~concluded either:~~

1 ~~(A) Within five years from the institution of the arbitration~~
2 ~~proceeding.~~

3 ~~(B) If the insured has a workers' compensation claim arising~~
4 ~~from the same accident, within three years of the date the claim is~~
5 ~~concluded, or within the five-year period set forth in subparagraph~~
6 ~~(A), whichever occurs later.~~

7 ~~(3) The doctrines of estoppel, waiver, impossibility,~~
8 ~~impracticability, and futility apply to excuse a party's noncompliance~~
9 ~~with the statutory timeframe, as determined by the court.~~

10 ~~(4) Parties to the insurance contract may stipulate in writing to~~
11 ~~extending the time to conclude arbitration.~~

12 ~~(j) Notwithstanding subdivisions (b) and (i), in the event the~~
13 ~~accident occurs in any other state or foreign jurisdiction to which~~
14 ~~coverage is extended under the policy and the insurer of the~~
15 ~~tortfeasor becomes insolvent, any action authorized pursuant to~~
16 ~~this section may be maintained within three months of the~~
17 ~~insolvency of the tortfeasor's insurer, but in no event later than~~
18 ~~the pertinent period of limitation of the jurisdiction in which the~~
19 ~~accident occurred.~~

20 ~~(k) Notwithstanding subdivision (i), any insurer whose insured~~
21 ~~has made a claim under his or her uninsured motorist coverage,~~
22 ~~and the claim is pending, shall, at least 30 days before the~~
23 ~~expiration of the applicable statute of limitation, notify its insured~~
24 ~~in writing of the statute of limitation applicable to the injury or~~
25 ~~death. Failure of the insurer to provide the written notice shall~~
26 ~~operate to toll any applicable statute of limitation or other time~~
27 ~~limitation for a period of 30 days from the date the written notice~~
28 ~~is actually given. The notice shall not be required if the insurer~~
29 ~~has received notice that the insured is represented by an attorney.~~

30 ~~(l) As used in subdivision (b), "public or livery conveyance,"~~
31 ~~or terms of similar import, shall not include the operation or use~~
32 ~~of a motor vehicle by the named insured in the performance of~~
33 ~~volunteer services for a nonprofit charitable organization or~~
34 ~~governmental agency by providing social service transportation~~
35 ~~as defined in subdivision (f) of Section 11580.1. This subdivision~~
36 ~~shall apply only to policies of insurance issued, amended, or~~
37 ~~renewed on or after January 1, 1976.~~

38 ~~(m) Coverage provided under an uninsured motorist~~
39 ~~endorsement or coverage shall be offered with coverage limits~~
40 ~~equal to the limits of liability for bodily injury in the underlying~~

1 policy of insurance, but shall not be required to be offered with
2 limits in excess of the following amounts:

3 (1) A limit of thirty thousand dollars (\$30,000) because of bodily
4 injury to or death of one person in any one accident.

5 (2) Subject to the limit for one person set forth in paragraph (1),
6 a limit of sixty thousand dollars (\$60,000) because of bodily injury
7 to or death of two or more persons in any one accident.

8 (n) Underinsured motorist coverage shall be offered with limits
9 equal to the limits of liability for the insured's uninsured motorist
10 limits in the underlying policy, and may be offered with limits in
11 excess of the uninsured motorist coverage. For the purposes of
12 this section, uninsured and underinsured motorist coverage shall
13 be offered as a single coverage. However, an insurer may offer
14 coverage for damages for bodily injury or wrongful death from
15 the owner or operator of an underinsured motor vehicle at greater
16 limits than an uninsured motor vehicle.

17 (o) If an insured has failed to provide an insurer with wage loss
18 information or medical treatment record releases within 15 days
19 of the insurer's request or has failed to submit to a medical
20 examination arranged by the insurer within 20 days of the insurer's
21 request, the insurer may, at any time prior to 30 days before the
22 actual arbitration proceedings commence, request, and the insured
23 shall furnish, wage loss information or medical treatment record
24 releases, and the insurer may require the insured, except during
25 periods of hospitalization, to make himself or herself available for
26 a medical examination. The wage loss information or medical
27 treatment record releases shall be submitted by the insured within
28 10 days of request and the medical examination shall be arranged
29 by the insurer no sooner than 10 days after request, unless the
30 insured agrees to an earlier examination date, and not later than
31 20 days after the request. If the insured fails to comply with the
32 requirements of this subdivision, the actual arbitration proceedings
33 shall be stayed for at least 30 days following compliance by the
34 insured. The proceedings shall be scheduled as soon as practicable
35 following expiration of the 30-day period.

36 (p) This subdivision applies only when bodily injury, as defined
37 in subdivision (b), is caused by an underinsured motor vehicle. If
38 the provisions of this subdivision conflict with subdivisions (a)
39 through (o), inclusive, the provisions of this subdivision shall
40 prevail.

1 ~~(1) As used in this subdivision, “an insured motor vehicle” is~~
2 ~~one that is insured under a motor vehicle liability policy, or~~
3 ~~automobile liability insurance policy, self-insured, or for which a~~
4 ~~cash deposit or bond has been posted to satisfy a financial~~
5 ~~responsibility law.~~

6 ~~(2) “Underinsured motor vehicle” means a motor vehicle that~~
7 ~~is an insured motor vehicle but the liability limits, or amounts~~
8 ~~payable from those limits, are less than the damages suffered by~~
9 ~~the injured person or persons.~~

10 ~~(3) This coverage does not apply to any bodily injury until the~~
11 ~~limits of bodily injury liability policies applicable to all insured~~
12 ~~motor vehicles causing the injury have been exhausted by payment~~
13 ~~of judgments or settlements, and proof of the payment is submitted~~
14 ~~to the insurer providing the underinsured motorist coverage.~~

15 ~~(4) When bodily injury is caused by one or more motor vehicles,~~
16 ~~whether insured, underinsured, or uninsured, the maximum liability~~
17 ~~of the insurer providing the underinsured motorist coverage shall~~
18 ~~not exceed the insured’s underinsured motorist coverage limits.~~

19 ~~(5) The insurer paying a claim under this subdivision shall, to~~
20 ~~the extent of the payment, be entitled to reimbursement or credit~~
21 ~~in the amount received by the insured from the owner or operator~~
22 ~~of the underinsured motor vehicle or the insurer of the owner or~~
23 ~~operator.~~

24 ~~(6) If the insured brings an action against the owner or operator~~
25 ~~of an underinsured motor vehicle, he or she shall forthwith give~~
26 ~~to the insurer providing the underinsured motorist coverage a copy~~
27 ~~of the complaint by personal service or certified mail. All pleadings~~
28 ~~and depositions shall be made available for copying or copies~~
29 ~~furnished the insurer, at the insurer’s expense, within a reasonable~~
30 ~~time.~~

31 ~~(7) Underinsured motorist coverage shall be included in all~~
32 ~~policies of bodily injury liability insurance providing uninsured~~
33 ~~motorist coverage issued or renewed on or after July 1, 1985.~~
34 ~~Notwithstanding this section, an agreement to delete uninsured~~
35 ~~motorist coverage completely, or with respect to a person or~~
36 ~~persons designated by name, executed prior to July 1, 1985, shall~~
37 ~~remain in full force and effect.~~

38 ~~(q) Regardless of the number of vehicles involved whether~~
39 ~~insured or not, persons covered, claims made, premiums paid, or~~
40 ~~the number of premiums shown on the policy, in no event shall~~

- 1 the limit of liability for two or more motor vehicles or two or more
- 2 policies be added together, combined, or stacked to determine the
- 3 limit of insurance coverage available to injured persons.

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